


# DEPARTMENT OF HEALTH AND HUMAN SERVICES

## OFFICE FOR CIVIL RIGHTS

### FY 2000 Budget

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

**OFFICE FOR CIVIL RIGHTS**

For expenses necessary for the Office for Civil Rights, [\$17,345,000] \$18,845,000, together with not to exceed \$3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund. *(Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act, 1999 as included in Public Law 105-277, section 101(f)).*

OFFICE FOR CIVIL RIGHTS

AMOUNTS AVAILABLE FOR OBLIGATION

	<u>FY 1998 Actual</u>	<u>FY 1999 Appropriation</u>	<u>FY 2000 Estimate</u>
<u>Appropriation:</u>			
Annual.....	\$ <u>16,345,000</u>	\$ <u>17,345,000</u>	\$ <u>18,845,000</u>
Subtotal, adjusted appropriation.....	16,345,000	17,345,000	18,845,000
 <u>Trust funds:</u>			
Annual appropriation.....	<u>3,314,000</u>	<u>3,314,000</u>	<u>3,314,000</u>
Subtotal, adjusted trust funds.....	3,314,000	3,314,000	3,314,000
Unobligated balance lapsing.....	<u>-37,005</u>	<u>---</u>	<u>---</u>
 <b>Total obligations.....</b>	<b>\$19,621,995</b>	<b>\$20,659,000</b>	<b>\$22,159,000</b>

OFFICE FOR CIVIL RIGHTS

SUMMARY OF CHANGES

1999 General	\$17,345,000
funds.....	<u>3,314,000</u>
HI/SMI trust funds	
transfers.....	\$20,659,000
Total estimated budget	\$18,845,000
authority.....	<u>3,314,000</u>
2000 Request--General	\$22,159,000
funds.....	
Request--HI/SMI trust funds	+\$1,500,000
transfers.....	
Total estimated budget	
authority.....	
Net	
Change.....	



<u>1999 Base</u>		<u>Change from Base</u>	
<u>(FTE)</u>	<u>Budget Authority</u>	<u>(FTE)</u>	<u>Budget Authority</u>

Increases:

A. Built-in:

1. Annualization of January 1999 pay raise.....	(225)	\$16,348,000	(---)	+\$149,000
	(225)	16,348,000	(---)	+540,000
2. Effect of January 2000 pay raise.....	(225)	16,348,000	(---)	+144,000
3. Career ladder promotions and within-grade increases.....	(225)	4,311,000	(---)	+242,000
.....	(225)	20,659,000	(---)	+\$1,075,000
4. Increase in travel, rent, utilities, supplies and other services.....	(225)	\$ ---	(---)	+\$350,000
.....	(225)	---	(---)	+75,000
Subtotal.....	(225)	366,000	(---)	+425,000
.....	(225)	366,000	(---)	+425,000

B. Program:

1. Consultant services for Hill-Burton reporting.....	(225)	20,659,000	(---)	+1,500,000
	(225)	\$20,659,000	(---)	+\$1,500,000
2. Enhanced compliance-related travel and training.....				
Subtotal.....				
.....				
Total				
Increases.....				

Net  
Change.....

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OFFICE FOR CIVIL RIGHTS

**BUDGET AUTHORITY BY ACTIVITY**

	1998		1999		2000	
	<u>Actual</u>		<u>Appropriation</u>		<u>Estimate</u>	
	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>	<u>FTE</u>	<u>Amount</u>
Compliance Activities.....	179	\$16,298,000	189	\$17,291,000	189	\$18,690,000
Legal Services.....	19	1,726,000	19	1,778,000	19	1,831,000
Program Management.....	<u>18</u>	<u>1,635,000</u>	<u>17</u>	<u>1,590,000</u>	<u>17</u>	<u>1,638,000</u>
<b>Total Budget Authority.....</b>	<b>216</b>	<b>\$19,659,000</b>	<b>225</b>	<b>\$20,659,000</b>	<b>225</b>	<b>\$22,159,000</b>
General funds.....		\$16,345,000		\$17,345,000		\$18,845,000
HI/SMI trust funds.....		<u>3,314,000</u>		<u>3,314,000</u>		<u>3,314,000</u>
<b>Total Budget Authority.....</b>		<b>\$19,659,000</b>		<b>\$20,659,000</b>		<b>\$22,159,000</b>

## OFFICE FOR CIVIL RIGHTS

## BUDGET AUTHORITY BY OBJECT

	1999 <u>Appropriation</u>	2000 <u>Estimate</u>	Increase or <u>Decrease</u>
Full-time equivalent employment.....	225	225	---
Full-time equivalent of overtime and holiday hours.....	---	---	---
Average SES salary.....	\$117,417	\$120,952	+\$3,535
Average GS grade.....	11.6	11.6	---
Average GS salary.....	\$61,404	\$63,705	+\$2,301
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Personnel compensation:			
Full-time permanent.....	\$13,670,000	\$14,368,000	+\$698,000
Other than full-time permanent.....	57,000	61,000	+4,000
Other personnel compensation.....	156,000	157,000	+1,000
Total, Personnel Compensation.....	13,883,000	14,586,000	+703,000
Civilian personnel benefits.....	2,448,000	2,578,000	+130,000
Benefits to Former Personnel.....	17,000	17,000	---
<b>Subtotal, Pay Costs.....</b>	<b>16,348,000</b>	<b>17,181,000</b>	<b>+833,000</b>
Travel.....	269,000	303,000	+34,000
Transportation of Things.....	4,000	4,000	---
Rental payments to GSA.....	1,753,000	1,845,000	+92,000
Rental payments to others.....	62,000	62,000	---
Communications, utilities, and others.....	200,000	204,000	+4,000
Printing and Reproduction.....	36,000	37,000	+1,000
Advisory and assistance services.....	---	---	---



Services from the Private Sector.....	97,000	494,000	+397,000
Purchases of goods and service from other government accounts..... (Service and Supply Fund payment).....	1,594,000 (1,248,000)	1,703,000 (1,275,000)	+109,000 (+27,000)
Operation and Maintenance of Equipment.....	132,000	159,000	+ 27,000
<b>Subtotal Other Contractual Services.....</b>	<b>1,823,000</b>	<b>2,356,000</b>	<b>+533,000</b>
Supplies and Materials.....	65,000	67,000	+2,000
Equipment.....	99,000	100,000	+ 1,000
<b>Subtotal, Non-Pay Costs.....</b>	<b>4,311,000</b>	<b>4,978,000</b>	<b>+667,000</b>
Total budget authority by object class.....	\$20,659,000	\$22,159,000	+\$1,500,000

OFFICE FOR CIVIL RIGHTS

**SALARIES AND EXPENSES**

	<u>1999 Appropriation</u>	<u>2000 Estimate</u>	<u>Increase or Decrease</u>
Personnel compensation:			
Full-time permanent (11.1).....	\$13,670,000	\$14,368,000	+\$698,000
Other than full-time permanent (11.3).....	57,000	61,000	+4,000
Other personnel compensation (11.5).....	156,000	157,000	+ 1,000
Total, Personnel Compensation (11.9).....	13,883,000	14,586,000	+703,000
Civilian personnel benefits (12.1).....	2,448,000	2,578,000	+130,000
Benefits to Former Personnel (13.1).....	17,000	17,000	---
<b>Subtotal, Pay Costs.....</b>	<b>16,348,000</b>	<b>17,181,000</b>	<b>+833,000</b>
Travel (21.0).....	269,000	303,000	+34,000
Transportation of Things (22.0).....	4,000	4,000	---
Rental payments to others (23.2).....	62,000	62,000	---
Communications, utilities, and others (23.3).....	200,000	204,000	+4,000

Printing and Reproduction (24.0).....	36,000	37,000	+1,000
<u>Other Contractual Services:</u>			
Consulting Services (25.1).....	---	---	---
Other Services (25.2).....	97,000	494,000	+397,000
Purchases of goods and service from other government accounts (25.3).....	1,594,000	1,703,000	+109,000
Operation and Maintenance of Equipment (25.7).....	132,000	159,000	+ 27,000
<b>Subtotal Other Contractual Services.....</b>	<b>1,823,000</b>	<b>2,356,000</b>	<b>+533,000</b>
Supplies and Materials (26.0).....	65,000	67,000	+2,000
<b>Subtotal, Non-Pay Costs.....</b>	<b>2,459,000</b>	<b>3,033,000</b>	<b>+574,000</b>
Total.....	\$18,807,000	\$20,214,000	+\$1,407,000

OFFICE FOR CIVIL RIGHTS

**AUTHORIZING LEGISLATION**

	1999 Amount Authorized	1999 Appropriation	2000 Amount Authorized	2000 Budget Request
Office for Civil Rights:				
P.L. 88-352;				
42 U.S.C. 300s;				
P.L. 91-616;				
P.L. 92-157;				
P.L. 92-158;				
P.L. 92-255;				
P.L. 93-282;				
P.L. 93-348;				
P.L. 94-484;				
P.L. 95-567;				
P.L. 97-35;				
P.L. 103-382				
P.L. 104-188.....	Indefinite	\$8,673,000	Indefinite	\$9,423,000
P.L. 92-318;				
P.L. 93-112;				
P.L. 94-135;				
P.L. 101-336.....	Indefinite	<u>8,672,000</u>	Indefinite	<u>9,422,000</u>
Total.....		\$17,345,000		\$18,845,000

OFFICE FOR CIVIL RIGHTS

**APPROPRIATIONS HISTORY TABLE**

	<u>Budget Estimate to Congress</u>	<u>House Allowance</u>	<u>Senate Allowance</u>	<u>Appropriation</u>
1991				
Appropriation	17,585,000	17,585,000	17,585,000	17,066,000
Sequester	---	---	---	-222
Trust Funds	4,000,000	4,000,000	4,000,000	3,904,000
1992				
Appropriation	18,524,000	18,524,000	18,524,000	18,323,000
Trust Funds	4,000,000	4,000,000	4,000,000	3,957,000
1993				
Appropriation	19,389,000	18,635,000	18,635,000	18,635,000
Trust Funds	3,969,000	3,917,000	3,917,000	3,917,000
1994				
Appropriation	18,308,000	18,308,000	18,308,000	18,308,000
Rescission	---	---	---	-1,000
Trust Funds	3,874,000	3,874,000	3,874,000	3,874,000
1995				
Appropriation	18,516,000	18,516,000	18,516,000	18,267,000
Rescission	---	---	---	-36,000
SSA Transfer	---	---	---	-72,000
Trust Funds	3,874,000	3,874,000	3,874,000	3,829,000
SSA Transfer	---	---	---	-97,000
1996				
Appropriation	17,558,000	10,249,000	16,153,000	16,153,000
Rescission	---	---	---	-72,000
1% Transfer	---	---	---	+330,000
Trust Funds	3,602,000	3,251,000	3,314,000	3,314,000
Rescission	---	---	---	-15,000
1997				
Appropriation	18,188,000	16,066,000	16,366,000	16,216,000
Rescission	---	---	---	-33,000
1% Transfer	---	---	---	+475,000
Trust Funds	3,602,000	3,314,000	3,314,000	3,314,000
Rescission	---	---	---	-7,000
1998				
Appropriation	17,216,000	16,345,000	16,345,000	16,345,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,314,000
1999				
Appropriation	17,345,000	17,345,000	17,345,000	17,345,000
Trust Funds	3,314,000	3,314,000	3,314,000	3,314,000
2000				
Appropriation	18,845,000			
Trust Funds	3,314,000			

## OFFICE FOR CIVIL RIGHTS

	FY 1998 <u>Actual</u>	FY 1999 <u>Appropriation</u> <sup>1</sup>	FY 2000 <u>Estimate</u>	Increase or <u>Decrease</u>
Budget Authority	\$19,659,000	\$20,659,000	\$22,159,000	+\$1,500,000
FTE	216	225	225	---

### GENERAL STATEMENT

The Office for Civil Rights (OCR) ensures that people have equal access to, and the opportunity to participate in and receive services from, all HHS programs without facing unlawful discrimination. Approximately 230,000 group and institutional providers, including state agencies, are subject to the nondiscrimination requirements that OCR enforces. Through the prevention and elimination of unlawful discrimination--thereby protecting the integrity of federally funded or conducted programs--OCR helps HHS carry out its overall mission of improving the health and well-being of all people affected by its many programs.

Under the civil rights laws enforced by the Department, providers of health care and social services are prohibited from discriminating on the basis of race, color, national origin, disability, or age. OCR also has limited authority to investigate discrimination based on sex and religion. Recipients of HHS funds include hospitals, extended care facilities, children and family programs (including Head Start), mental health centers, alcohol and drug treatment programs, public assistance agencies, adoption and foster care programs, and senior citizens programs.

The civil rights statutes enforced by OCR include Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act of 1990, the community service requirements of Titles VI and XVI of the Public Health Service Act, and provisions of the Omnibus Budget Reconciliation Act of 1981 relating to nondiscrimination in block grant programs. In addition, OCR is responsible for coordinating government-wide enforcement of the Age Discrimination Act. OCR also coordinates Department-wide implementation of the Section 504 regulation adopted in 1988 that prohibits discrimination on the basis of disability in programs and activities conducted by the Department.

Furthermore, during the past three fiscal years, working with the Administration for Children and Families, OCR has implemented the civil rights requirements under the interethnic adoption provisions of the Small Business Job Protection Act of 1996 (SBJPA) intended to prevent racial and national origin discrimination in foster care and adoption placements. This followed two years of activities which implemented similar provisions under the Multiethnic Placement Act of 1994.

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<sup>1</sup> In FY 1999, OCR also will have authority to spend up to \$200,000 in FY 1999 supplemental funds needed to support Y2K compliance.

Funding levels for OCR (including amounts available for obligation from both budget authority and trust fund transfers) during the last five fiscal years are as follows. FTE figures include full-time, part-time and temporary staff.

<u>FISCAL YEAR</u>	<u>FUNDS</u>	<u>FTE</u>
1995	\$21,891,000	259
1996	\$19,710,000	242
1997	\$19,965,000	232
1998	\$19,659,000	216
1999	\$20,659,000	225

The President's appropriation request for this account represents current law requirements. No proposed law amounts are included.

#### Purpose and Method of Operations

OCR enforces nondiscrimination requirements by processing and resolving discrimination complaints, by conducting reviews and investigations, by monitoring corrective action plans, and by carrying out voluntary compliance, outreach and technical assistance activities. OCR is comprised of an investigative and support staff, a legal services staff, and a program management component. The FY 2000 budget request supports 225 FTE on an annualized basis. This is nine more than FY 1998 actual usage. It is equal to the 225 FTE that can be supported under the FY 1999 appropriation. The requested level is needed to support more effective enforcement of civil rights laws in the quickly evolving health and human services arena. This will enable OCR to further stem an erosion of investigative staff and constant dollar resources available to enforce nondiscrimination laws in facilities providing health and human services to the American public. It also will enable OCR to continue implementation of the HHS Civil Rights Plan through an ambitious Government Performance and Results Act (GPRA) Annual Performance Plan. OCR's priority is to allocate staff to frontline investigative activities, largely in OCR's regional offices. The FTE allocation is shown below:

	<u>FY 1998</u> <u>FTE</u>	<u>FY 1999</u> <u>FTE</u>	<u>FY 2000</u> <u>FTE</u>
Compliance Activities	179	189	189
Legal Services	19	19	19
Program Management	<u>18</u>	<u>17</u>	<u>17</u>
TOTAL	216	225	225

From hospitals and nursing homes to Head Start centers and senior centers, the public expects to receive high quality services without regard to race, color, national origin, disability, age, sex and religion. As the primary defender of the public's right to nondiscriminatory access to and receipt of health and human services, OCR will be working to ensure equal opportunity for all to access such services.

Civil rights protection must keep pace with the rapid changes in health and social services delivery systems to increase the public's confidence that individuals will be treated equitably and fairly as these systems continue to evolve rapidly during the late 1990's (e.g., managed care and enhanced state flexibility through waivers or other reforms to help individuals and families achieve self sufficiency). This will be accomplished through partnerships with other components of the Department of Health and Human Services and with state and local governments in activities such as pre-grants, post-grant reviews and investigations, outreach and technical assistance, and data collection and analysis. The request will support initiatives for working with state, local, and other partners to ensure that civil rights issues are addressed concurrently with major transformations in health and social services systems.

### Civil Rights Plan

In January 1995, the Secretary approved the HHS Civil Rights Plan. During the past four years, this plan has focused on issues that were identified through a broadly consultative planning process that included clients and providers of HHS services and partners within the Department and at the state and local levels. This budget request is an extension of the plan's central concept: that civil rights protection must be an integral part of deliberations on issues as health care delivery, health insurance arrangements, welfare reform, long-term care, adoption and child welfare, immigration, job training and placement, preventive health initiatives, and the location and integration of services. The Civil Rights Plan and this budget request continue to anticipate challenges resulting from the accelerating changes in the diversity of our population and in the delivery of health and social services. The Government-wide imperative for change reflected in the Government Performance and Results Act (GPRA) and in recommendations of the National Performance Review, the Secretary's Continuous Improvement Program, and the HHS Strategic Plan are also addressed both in the Civil Rights Plan and in this budget request.

Under the Civil Rights Plan, the Department--with OCR leadership--will continue to work on addressing high priority nondiscrimination issues. OCR will use all available enforcement tools to ensure that all persons are served in a nondiscriminatory manner in HHS-funded programs. Consistent with the Civil Rights Plan and program-specific objectives set out in OCR's GPRA Annual Performance Plan, during both FY 1999 and FY 2000, OCR will address four major issues:

- ! nondiscriminatory implementation of the Temporary Assistance to Needy Families (TANF) program and its welfare-to-work components,
- ! continuing growth in managed care plans and the relationship between access for minorities and persons with disabilities and the Secretary's quality of health care initiative,
- ! nondiscriminatory adoption placements, and
- ! access to information and services for persons with limited English proficiency.

OCR also will seek to ensure nondiscriminatory implementation and provision of services under state Children's Health Insurance Programs (CHIP).

#### Program Performance Measures - GPRA

The Office for Civil Rights has a single program activity --- ensuring compliance with civil rights laws. The program is accomplished through several compliance methods (i.e., complaint investigations, post-grant reviews and investigations, pre-grant reviews, monitoring and voluntary compliance and outreach) that will be described in greater detail in the workload/output section of this justification. As noted previously, OCR's GPRA plan identifies four key program areas and issues for priority civil rights attention and seeks to develop customer-focused outcome measures that will supplement output measures.

During FY 2000, OCR will continue to develop and refine outcome baselines that will support initiatives to link its GPRA Performance Plan to the HHS Civil Rights Plan goal of increasing access to and participation in HHS programs through the prevention or elimination of unlawful discriminatory barriers and practices. Consistent with the Civil Rights Plan's objective of focusing resources on high priority areas of potential discrimination, OCR's FY 2000 Performance Plan will concentrate on continuing development of appropriate outcome measures to assess the effect of post-grant reviews on reducing race and disability discrimination in access to health and human services. The GPRA Annual Performance Plan also incorporates output measures that serve both as measures of operational efficiency and as intermediate and interim measures of outcomes until OCR has been able to collect, monitor and validate two to three years of facility or other provider-based outcomes to develop population-based outcome measures.

As noted by many civil rights agencies government-wide, civil rights law enforcement does not have a "discrimination rate" that is comparable to crime rate data in the area of criminal law. There currently are no direct measures of the extent of discrimination against which OCR can assess the success of its compliance activities. As part of a multi-agency initiative, the Department will be exploring means by which discrimination in the health sector can be measured and reported. OCR will pilot test measures that may include the number of persons whose rights have been protected, or the number of persons who have gained access to services who previously were unable to do so on the basis of a provider's noncompliant policy or practice. OCR will work with partners (health and human services providers, community groups, and/or other stakeholders) to review existing data and reports to determine changes in access, including changes in the numbers of minority and/or disabled individuals receiving services. The GPRA Performance Plan includes development and definition of performance baselines and targets that can be applied to each of OCR's compliance methodologies (i.e., complaint investigations, post-grant reviews and investigations, pre-grant reviews, monitoring and voluntary compliance and outreach).

#### **HIGH PRIORITY PROGRAM INITIATIVES**

In the February 21, 1998, radio address in which he announced an initiative to reduce what have been longstanding chronic racial and ethnic disparities in health status, President Clinton said:



We do not know all the reasons for these disturbing gaps. Perhaps inadequate education, disproportionate poverty, discrimination in the delivery of health services, cultural differences are all contributing factors. But we do know this: No matter what the reason, racial and ethnic disparities in health are unacceptable in a country that values equality and equal opportunity for all. And that is why we must act now with a comprehensive initiative that focuses on health care and prevention for racial and ethnic minorities.

In Quality First: Better Health Care for All Americans, the final report of the President's Advisory Commission on Consumer Protection and Quality in the Health Care Industry, the Commission's proposed Consumer Bill of Rights states that "consumers have the right to considerate, respectful care, free of discrimination."

In FY 2000, as it carries out its civil rights compliance and outreach functions, OCR will be actively engaged in helping to resolve the problems noted above through support of several Presidential and HHS-wide initiatives. OCR's post-grant and voluntary compliance and outreach (VCO) activities will support the Secretary's initiative on children's health through outreach, technical assistance, and reviews and investigations focused on state implementation of the Children's Health Insurance Program (CHIP) or on state and local implementation of the adoption and foster care nondiscrimination provisions of the Small Business Job Protection Act of 1996. These compliance activities will support the Secretary's children's health initiative by seeking to ensure that state CHIP programs employ "methods of administration" that provide civil rights protection for program participants. These activities also will support the President's Adoption 2002 Initiative by speeding up the placement of minority children into permanent and stable family situations. Permanency in placements should also help to improve the quality and continuity of health care for such children.

Additional post-grant and VCO activities will support the Secretary's welfare-to-work initiative by ensuring nondiscrimination in implementation of the Temporary Assistance to Needy Families (TANF) program. Furthermore, a significant proportion of OCR's compliance activities is projected to support the Secretary's initiative on quality of health care by focusing on civil rights compliance in managed care plans and access to care for minorities, persons with limited English proficiency and persons with disabilities. This workload will include reviews following up on FY 1997 analyses of the fifth triennial cycle of Hill-Burton Community Assurance compliance reporting and a random sample of non-Hill-Burton hospitals subject to Title VI of the Civil Rights Act of 1964.

A majority of OCR's total compliance review, investigation, outreach, partnership, and technical assistance activities are projected to support the Presidential and Secretarial initiatives noted above. Each of OCR's compliance activities ensures that individuals are treated in a nondiscriminatory manner by health and human services provider agencies or facilities. OCR's work helps ensure the protection of individual rights and simultaneously supports HHS goals for enhancing the health and well-being of individuals, families and communities by providing effective health and human services. Compliance initiatives, particularly targeted projects, such as reviews or outreach and education activities undertaken in partnership with OPDIVs, state and local governments or providers, are cost beneficial means by which the Department can ensure that these goals may be reached for all Americans.

OCR will build on FY 1999 and earlier initiatives to support the HHS Civil Rights Plan and HHS Strategic Plan program objectives.

As described in our GPRA Annual Performance Plan, OCR will monitor providers and develop baselines for customer-focused outcome measures of change starting in FY 1999 and continuing for two to three years. Refinement of the allocation of resources among the priority issues will be based on feedback from the initial years of compliance initiatives targeted to the plan's and this budget's identified high priority civil rights issues. The allocation of resources to reviews, outreach, partnerships and technical assistance initiatives in each identified issue area will be determined in each year's operational plan based on the latest experiences in the field and on feedback from output and outcomes data collected on prior year targeted activities. Ongoing improvements in complaint processing, continuing support for a balanced operating budget including compliance-related and training resources, and maintaining OCR's FTE at a stable level of 225 will enable OCR to support a 12 percent increase (+83) in the number of post-grant reviews or investigations of compliance and 25 more (+8.1%) outreach/partnership and technical assistance activities than undertaken during FY 1999.

Each of the program areas described below will be supported by the requested enhancement for compliance and enforcement.

#### Quality of Care and Cost Containment - Managed Care and Home Health Care

Ongoing changes related to increased state flexibility in the organization of health care coverage and services for the poor and disabled receiving Medicaid are likely to continue to expand OCR's responsibilities for ensuring nondiscrimination in the expenditure of federal funds. In support of its GPRA Annual Performance Plan objectives, OCR will need to concentrate its resources on the critical civil rights issues surrounding changes in health care coverage and services that are undertaken in the states. To focus its compliance initiatives effectively in an increasingly complex and rapidly changing health care delivery environment, OCR must work with HHS Operating Division partners to improve research and data collection efforts to support targeted enforcement in this changing arena. In doing so, OCR and its partners would be following through on recommendations in Quality First: Better Health Care for All Americans that call for increased attention to quality measurement and vulnerable populations and to collection of information on the multiple dimensions of quality, including the ease with which health care can be reached in the face of barriers.

HHS and the states have turned to managed care arrangements, either open or closed panels and either gatekeeper or non-gatekeeper models, in order to save money in the Medicaid and Medicare programs. The paradox of managed care for vulnerable populations is that, although such arrangements have the potential to improve access for minority and disabled populations, the underlying premise of managed care is control of over-utilization of services. Because managed care may be predicated, in part, on a belief in "excess" care, such systems raise important issues for populations for whom under-service rather than over-utilization has been the historic problem. OCR needs to be able to assess the effects of managed care on services to minority and disability communities.

OCR compliance initiatives in this arena will focus on managed care plans, while meeting the triennial Secretarial responsibility to ensure that Hill-Burton funded health care facilities are in compliance with their community service assurance. Hospitals, which have been the principal provider required to report in prior triennial Hill-Burton reporting cycles during the past 15 years, have in many cases experienced considerably reduced control over those whom they serve. Under managed care arrangements, many decisions regarding hospitalizations and services and which facilities provide such services have moved from providers to insurers. OCR will look at the effect of managed care arrangements on Hill-Burton facilities and others while carrying out the regulatory requirement for a sixth triennial Hill-Burton reporting cycle during FY 2000. In order to carry out this reporting cycle, OCR is requesting \$350,000 in consultant services funding to support methodology and system design, survey mailings and analysis.

During FY 2000, OCR investigations and reviews will follow up on the FY 1996 Civil Rights Compliance Report through which OCR surveyed all Hill-Burton short-term acute care hospitals nationwide and a random sample of 380 non-Hill-Burton hospitals subject to Title VI (race and national origin) compliance requirements. These reviews will be based on analyses completed during FY 1997 and will focus on racial and ethnic minority individuals' access to hospital inpatient services. Ensuring nondiscrimination in the availability of such services and in facilities' outreach to racial and language minority communities will support several Public Health Service and HHS initiatives, including Healthy People 2000, Healthy People 2010, and the Department's health disparities initiative. OCR's compliance initiatives will focus on nondiscrimination and related improvements in minority populations' health status and will support the recommendations concerning quality of care and vulnerable populations made by the President's Commission on Consumer Protection and Quality in the Health Care Industry.

In some cases, Hill-Burton and Title VI reviews will include analysis of the relationship of managed care and potential disproportions in services to minorities. Reviews and technical assistance work in this area will focus on the following issues: marketing and enrollment, member disenrollment, participating provider selection and compensation, quality assurance and utilization review, performance standards, member access to services, treatment of patients with certain conditions and disabilities, state oversight of plan practices and state standards of licensure and performance for Medicaid providers, and state payment methods for services.

As the expansion of managed care continues to change the shape of the health care delivery system, important issues concerning the effect of managed care on access to services for minorities and individuals with disabilities have begun to arise. These issues include possible differential provision of services, differential advertising and marketing of services, differential steering to providers, differential availability of resources, and discrimination in privileges related to participation in managed care systems. OCR will undertake a series of reviews concentrating on ensuring that, as both Medicare and Medicaid expand the use of managed care, racial and national origin minority individuals and persons with disabilities are treated in a nondiscriminatory manner. It is essential to make certain that programs are run and are perceived as being run equitably, as the Department and/or states encourage the use of diverse approaches.

Examples of activities focusing on access to managed care plan services for minorities and persons with disabilities include projects in OCR's Chicago and Philadelphia regional offices.

- ! A Chicago project illustrates how partnerships with the private sector, state officials and advocacy groups can address managed care practices proactively to avoid potentially discriminatory results. Travelers and Immigrant Aid in Chicago raised concerns that managed care plans were marketing services to persons with limited English proficiency (LEP) without providing interpreters or means by which LEP Medicaid beneficiaries could fully understand what they were agreeing to by choosing a particular plan. Working with HCFA, the Office of Minority Health, the Joint Commission on Accreditation of Health Care Organizations, the state Medicaid agency and community groups, OCR addressed marketing issues that could have had an adverse effect on minorities, particularly Asian-Americans. Following up on this activity, the region conducted several reviews during FY 1997 and FY 1998 that focused on managed care and Medicaid clients. In a review involving a major health maintenance organization in Chicago, the office provided technical assistance that resulted in changes in how the HMO's member services and marketing departments inform clients about interpreter services for both persons with hearing disabilities and those with limited English proficiency.
- ! In a Philadelphia office review of Pennsylvania's Southeastern region's Medicaid managed care program, OCR is working with the state and with local plans to ensure effective communication in marketing, plan selection decisions, and service provision for hearing impaired individuals and persons with limited English proficiency. This effort has resulted in agreements to improve the availability of interpreter and translator services, translated documents, and other information that is accessible to the hearing and visually impaired public and limited English proficient persons.

#### Implementation of Adoption Nondiscrimination Requirements

Since the passage of the Multiethnic Placement Act (MEPA) and the interethnic provisions of the Small Business Job Protection Act of 1996 (SBJPA), OCR has reviewed the statutes, regulations and published policies of all 50 states. Section 1808 of SBJPA, entitled "Removal of Barriers to Interethnic Adoption", affirms and strengthens the prohibition against discrimination in adoption or foster care placements. It does this by adding to title IV-E of the Social Security Act a state plan requirement and penalties that apply both to states and adoption agencies. In addition, it repeals Section 553 of MEPA, which has the effect of removing from the statute the language that reads, "Permissible Consideration -- An agency or entity [which receives federal assistance] may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective foster or adoptive parents to meet the needs of a child of such background as one of a number of factors used to determine the best interests of a child."

The SBJPA provisions clarified Congressional intent to eliminate completely delays in placement where they were in any way avoidable. Race, color, or national origin may not be used in a discriminatory manner as the basis for any denial of placement, nor may such factors be used as a reason to delay any foster or adoptive placement. The interethnic adoption provisions maintain a prohibition against delaying or denying the placement of a child for

adoption or foster care on the basis of race, color, or national origin of the adoptive or foster parent, or the child involved. They further add a title IV-E state plan requirement that also prohibits delaying and denying foster and adoptive placements on the basis of race, color or national origin.

The provisions also subject states and entities receiving funding that are not in compliance with these title IV-E state plan requirements to specific graduated financial penalties. Administration for Children and Families (ACF) and OCR staff have worked on a common protocol for determining compliance with these interethnic adoption provisions, as well as policy and procedures for ACF to use in applying the title IV-E requirements, developing corrective action plans and imposing penalties.

OCR will continue to receive and investigate complaints related to SBJPA, and in addition will conduct independent reviews to test compliance within the states. ACF will also conduct reviews that focus on or include tests of SBJPA compliance. Both agencies will continue to use the common protocol and review standards in order to ensure uniform application of the statute and equitable and effective enforcement.

During the past three years, OCR has worked in partnership with ACF to ensure that states eliminated policies, practices and statutory provisions that posed MEPA and Section 1808 SBJPA compliance problems. Following review of all states' statutes and regulations OCR identified thirty jurisdictions with identified MEPA problems. Corrective actions resulting from OCR's involvement included elimination of: discriminatory preferences in 28 statutes, regulations or policies; discriminatory consideration of race in nine statutes, regulations or policies; discriminatory time requirements in placement in nine statutes, regulations or policies; and discriminatory racial preference in recruitment in five statutes regulations or policies. For example, OCR's work with the states has resulted in elimination of policies that established a time period during which a same race/ethnicity search could occur and policies that established explicit preferences for same race/ethnic placements.

OCR regional offices continue to work with ACF and states to ensure that placement agencies comply with SBJPA requirements. These activities are consistent both with the joint OCR and ACF guidance to staff in their respective regional offices concerning compliance with Section 1808 and the joint letter to state agencies on such compliance. Casework in this area has resulted in several changes in state and local agencies' policies and procedures. For example, in a case in Michigan, OCR found that a supervisor and a new caseworker had misrepresented the facts in a case in which a premature African-American infant had been placed with white foster parents and was subsequently moved to an African-American foster home. In this case, the actions of a supervisor and caseworker circumvented a placement committee that had been created to ensure appropriate placements. Based on the discovered misrepresentation, the recipient fired the supervisor and placed the caseworker on probation and put new procedures in place to prevent recurrence of similar problems. Corrective actions taken as a result of OCR post-grant compliance reviews in this arena have included: modification of profiles of waiting children, editing of foster parent videos to comply with the law, revised training instructions, and renewed compliance assurances.

During FY 2000, OCR anticipates continuing technical assistance to states and placement agencies, ongoing partnership with ACF and others, reviews or investigations of compliance, and follow-up monitoring of corrective action plans associated with implementation of the strengthened adoption nondiscrimination provisions included in the Small Business Job Protection Act of 1996 and in guidelines for OCR and ACF implementation. OCR and ACF are exploring the potential for joint reviews and for OCR participation in ACF state agency reviews. Such activities will require additional travel funds in FY 2000. With enhancement of travel funds and the related increase in post-grant and VCO initiatives, OCR will be able to increase the number of partnerships, outreach initiatives and reviews of compliance that it can undertake, consistent with its GPRA Annual Performance Plan objectives, to increase the number of state and local agencies and adoption and foster care providers found to be in compliance with Title VI, Section 504 and the Americans with Disabilities Act.

### HIV/AIDS

Although the number of complaints filed on the basis of HIV/AIDS has diminished during the past few years, in part due to OCR's outreach and investigative activities, OCR will continue to investigate allegations of discrimination against persons with HIV or AIDS. During the past several years, a significant proportion of allegations have concentrated on nursing home and home health care access issues. OCR has found that many homes have policies that have effectively denied access to persons with HIV or AIDS. For example, in one case, OCR found that a home's requirement of a large deposit and naming of a guardian for a person with HIV were more extensive requirements than for non-HIV patients. The policy resulted in delayed admission and additional expenses for the patient's family. Corrective action in this case included: changes in policies to ensure that persons with communicable diseases, including AIDS, would be admitted in accordance with state health department rules, deposit requirements that are consistent for all patients regardless of disability, and reimbursement to the family for unnecessary additional expenses.

In a post-grant review, OCR discovered that, based on an outreach initiative in which renal dialysis facilities were advised of their obligations under Section 504 to serve HIV positive patients in a nondiscriminatory manner, a hospital changed its practice of routinely asking for HIV tests prior to admitting patients to its dialysis unit. This is an example of how outreach and technical assistance can reduce the incidence of discriminatory practices.

The Department and the Medicaid program in particular have considerable fiscal reasons for ensuring that persons with HIV/AIDS are not discriminated against in nursing home admissions, home health services and access to other non-acute care services. As persons with HIV/AIDS live longer due to protease inhibitors, AZT, DDI and other drug therapies, it is important to reduce Medicaid costs associated with providing quality care to such patients. Each hospitalization that can be avoided, in some cases through placement in skilled or other levels of nursing home care, can save several thousand dollars. Nondiscriminatory access to other non-acute care outpatient services may also save significant costs by reducing the number of high cost inpatient admissions for persons with HIV/AIDS.

### National Origin Nondiscrimination

During FY 2000, as a key objective in its GPRA Annual Performance Plan, OCR will continue to work with health care and social services providers, state and local agencies and HHS partners, to ensure that persons of limited English proficiency (LEP) are not discriminated against on the basis of national origin. Recipients must ensure that policies and procedures do not exclude or have the effect of excluding or limiting the participation of beneficiaries in their programs on the basis of race, color or national origin. Consistent with the facts of each case and the type of service provided, reasonable steps should be taken to provide services and information in languages other than English in order to ensure that LEP persons are effectively informed and can effectively participate in and benefit from programs.

Non-English speaking persons have always faced language barriers. However, in the past 25 years, as immigration from Asia, Central and South America and Eastern Europe has increased, the United States has had to address the issue of access by LEP populations to the nation's health and social services. For over 15 years, OCR has received complaints and conducted compliance reviews and outreach initiatives addressing this issue. OCR has worked with numerous interest groups to help develop workable solutions. For example, the Atlanta regional office has worked with an Atlanta metro area county health department and with community groups to ensure the availability of bilingual staff and interpreter services in public health clinics. Additionally, as a result of this effort, a major area medical center opened a 24 hour outpatient center staffed by bilingual medical and administrative staff to serve the growing number of Hispanic and Asian persons with limited English proficiency living in the area.

OCR anticipates a critical need for outreach and technical assistance prior to undertaking systematic reviews and investigations of compliance in this arena. In FY 1998, OCR issued a staff guidance memorandum that clarified requirements for provision of services to persons with limited English proficiency. Each OCR regional office and headquarters held outreach meetings with providers, advocacy organizations, state and local officials, and HHS OPDIVs to present the guidance memorandum. Since these presentations, OCR has had many requests for additional information and presentations including, for example, a presentation to the Governor of Maine and his Cabinet. In New York, the Greater New York Hospital Association has indicated its interest in working with OCR's regional office in a partnership to reduce discrimination based on national origin and against limited English proficient persons. The guidance memorandum has generated additional requests for technical assistance and has stimulated interest in pursuing joint activities and partnerships to ensure compliance. Responding to this anticipated increased demand will require additional travel resources in FY 2000 to support regional forums, implementation of partnerships both within the Department and with organizations representing service providers, recipients, and beneficiaries, provision of technical assistance and training, and initiation of reviews of compliance with Title VI.

#### Temporary Assistance to Needy Families - Welfare Reform

As states and local governments continue implementation of the Temporary Assistance to Needy Families (TANF) welfare reform program, advocacy organizations have expressed concerns that racial and language minorities and persons with disabilities may be subjected to disparate treatment in assignment to work, training and education programs. OCR will work in partnership with ACF and others to ensure that programs are implemented in a

nondiscriminatory manner. Examples of conduct that may violate Title VI would include circumstances in which a predominantly minority community is provided lower benefits, fewer services, or is subject to harsher rules than a predominantly nonminority community. Potential Section 504 noncompliance could include failure to provide reasonable accommodation in job training to a blind trainee (e.g., failure to provide instructional materials in braille). These and other examples of potential discrimination are included in an interagency guidance letter that will be sent to state and local agencies, advocacy organizations, and others. This guidance is likely to stimulate additional need for technical assistance and requests to pursue joint activities to ensure compliance. Responding to this anticipated increased demand will require additional travel resources. As the restructuring of welfare agencies proceeds, it is essential that either the civil rights compliance components and/or the methods developed over the past three decades for ensuring that civil rights issues were addressed in program delivery are retained as integral aspects of state and local program implementation and oversight.

One area in which OCR Regional Offices have noted potential compliance problems that may impede some TANF recipients from making the successful transition to work is in the availability of day care for children with a variety of disabilities. In cases involving dismissal or non-acceptance in programs, OCR has reviewed and taken corrective actions to ensure that appropriate individualized assessments and physical and other accommodations are considered in determining acceptance and/or retention in a day care program.

With enhancement of travel funds and the related increase in post-grant and VCO initiatives, OCR will be able to increase the number of partnerships, outreach initiatives and reviews of compliance that it can undertake, consistent with its GPRA Annual Performance Plan objectives, to increase the number of state and local agencies and TANF service providers found to be in compliance with Title VI, Section 504 and the Americans with Disabilities Act.

#### Children's Health Insurance Program (CHIP)

The Office for Civil Rights has a significant role to play during the implementation of the greatest expansion of health care coverage since the advent of Medicare and Medicaid in the 1960's. The Children's Health Insurance Program being implemented in various forms by the states, is intended to reach millions of children not currently covered by health insurance. During the past few months, OCR has worked with HCFA and HRSA staff in reviewing initial state plan proposals. To date, during reviews OCR has noted potential problems for followup with the states regarding enrollment, outreach, provision of services, availability of materials, and site accessibility for persons with visual and hearing disabilities and persons with limited English proficiency. OCR plans to follow up with state agencies as they implement their plans to ensure that they incorporate methods of program administration that guarantee effective civil rights protection for program participants, including nondiscrimination policies, grievance and complaint procedures, translation of important program documents, use of systems for identifying interpreter services and auxiliary aids needed by clients and their families, and training of employees on Title VI and Section 504/ADA requirements. These outreach and partnership initiatives aimed at achieving voluntary compliance will require additional travel resources as an increasing number of states implement CHIP during the next two years. In addition, by FY 2000, OCR anticipates conducting post-grant reviews and investigations where information has come to our attention that compliance problems may exist.





## COMPLIANCE ACTIVITIES

OCR will implement the high priority civil rights initiatives described above through a comprehensive compliance and enforcement program. OCR's compliance activities are as follows:

- ▶ Complaint Processing
- ▶ Reviews and Investigations
- ▶ Monitoring
- ▶ Voluntary compliance and outreach activities

Of the total 225 FTE in the request, 189 FTE (84 percent) are to be allocated to compliance activities. OCR plans to allocate 57.5% of investigative staff time to conduct post-award and pre-grant reviews, review-related and other non-complaint generated investigations, and voluntary compliance and outreach (VCO) activities in FY 2000. This is slightly higher than the proportion of investigators' time allocated to such activities in FY 1998 (57.2%) and in FY 1999 (56.9%). In addition, OCR will continue to restructure and refine the review and investigation process to expand coverage of the Department's program recipients. Productivity gains in processing the workload will also be relied on to increase case closures and the number of reviews, investigations, and VCO projects conducted in FY 2000.

The following table compares the actual distribution of FTE among the compliance activities in FY 1998 to the projections for FY 1999 and FY 2000:

	FY 1998	FY 1999	FY 2000
	<u>FTE</u>	<u>FTE</u>	<u>FTE</u>
Complaint Processing	74	78	77
Reviews & Investigations	78	82	81
Monitoring	3	4	3
Voluntary Compliance and Outreach	<u>24</u>	<u>25</u>	<u>28</u>
TOTAL	179	189	189

### Complaint Processing

OCR's policy is to investigate all complaints of discrimination within our jurisdiction that are filed with the office. This policy is based on the Department's regulations implementing the various nondiscrimination statutes and the Department of Justice coordinating regulations requiring compliance agencies such as OCR "to establish procedures for the prompt processing and disposition of complaints" alleging discrimination (28 CFR Section 42.408(a)).

OCR complaint investigations have supported HHS goals for improving the health status of all Americans, including racial and ethnic minorities. In particular, ensuring nondiscriminatory access to hospital services, including clinic services, can assist in:

- ▶ reducing infant mortality rates among African-Americans and Hispanic-Americans,

- ▶ reducing the number of African-American low birthweight babies,
- ▶ increasing cancer examination and prevention services to Hispanic-Americans, and
- ▶ increasing immunization and infectious diseases services to Asian-Americans, Native Hawaiians and Other Pacific Islanders.

OCR investigations have resulted in hospitals' changing clinic locations or hours so that minority women gained access to pregnancy-related services that were not previously available. Where such access has resulted in first trimester services, such services have likely reduced the potential for low birthweight deliveries and improved the health prognosis for such children far into the future. Given the high cost of neonatal care for each low birthweight baby (\$250,000-\$500,000), improving access to early intervention and care, as noted in this example of OCR investigative and outreach initiatives, is also highly cost beneficial.

A case in a Midwestern hospital shows how OCR complaint investigations can help to improve access to health care services and the quality of such services for national origin minorities. Prior to OCR involvement, more than half of the hospital's patients who were limited English proficient used family members or friends as interpreters when communicating with medical and other hospital staff. OCR's experience is that using trained interpreters in the medical setting leads to more effective provision of quality care. After OCR's investigation, corrective actions were taken to ensure that interpreter services were provided by the facility in a timely manner. The facility policy was changed so that family members or friends were used to interpret only when expressly requested by the patient. Since the policy change, only 14 percent of limited English proficient patients used a family member or friend to communicate with medical personnel.

OCR complaint investigations have also resulted in enhancing services for persons with disabilities, while addressing cost containment concerns. For example, substantial cost savings can be generated through successful arrangements for independent living for persons with disabilities. A case in OCR's Kansas City office addressed the denial of home chore services to persons with developmental disabilities. The state in question had a policy under which a person with a physical disability could receive such services, but a person with both a physical and developmental disability could not receive home chore services. The state agency changed its regulations and agreed to change adult day care and transportation regulations so that persons with multiple disabilities, including developmental disabilities, can retain a maximum degree of independence and avoid expensive nursing facility care.

OCR complaint investigations in the area of disability address crucial issues about equity of services in the context of an aging population. For example, a complaint alleged that a nursing home had involuntarily discharged a patient with Alzheimer's disease thereby discriminating on the basis of disability. OCR secured corrective action including an offer of re-admission, as well as agreement to train staff on the care of Alzheimer's residents, to reimburse the patient for expenses incurred as a result of the discharge, and to maintain data on persons transferred and the reasons for such transfer or discharge. This facility also agreed to change its policy

that effectively barred any patients with a communicable disease and to work with the state Health Department in admitting such patients on a case-by-case basis.

OCR's activities associated with guidance memoranda on limited English proficiency, interethnic adoption, and welfare reform and civil rights may affect complaint receipts in either direction - up or down. OCR's voluntary compliance and partnership activities are aimed at reducing incidences of discrimination over the longer term. However, informing the public, advocates, and providers of civil rights requirements may also stimulate an increase in complaints. OCR's management activities focusing on strengthening regional investigative capacities also may stimulate additional complaints and other requests for compliance assistance. As regional offices have continued to lose staff over the past several years prior to FY 1999, some have reached investigations staffing levels that have resulted in delays in case processing and reduced visibility for civil rights issues. In cases in which advocacy organizations and individuals have perceived a diminished capacity for rapid response, such perceptions have resulted in fewer complaint filings. OCR intends to manage operations with the requested enhanced budget to restore the public's confidence that complaints will be addressed quickly and effectively.

OCR's complaint receipts during the past decade have fluctuated considerably within a range of from 1,600 to 2,300 receipts annually. Complaint receipts peaked in FY 1992, shortly after implementation of the Americans with Disabilities Act. Since FY 1994, the number of receipts has decreased annually. This budget projects limited increases in complaint receipts in both FY 1999 and FY 2000 based on multiple regression analyses of data for the most recent one, two and three year periods. On the basis of these analyses, OCR expects to receive approximately 1,605 new complaints in FY 1999 and 1,625 new complaints in FY 2000.

In FY 1998, OCR completed 1,644 discrimination complaint cases, closing 77 percent of its complaint workload. This was somewhat higher than the 75 percent of complaint closures experienced during FY 1997. As a result of ongoing efforts to streamline complaint handling through changes in investigative processes, use of negotiated resolution and alternative dispute resolution, OCR expects continuing productivity increases and faster responses to complainants during both FY 1999 and FY 2000. The inventory of open complaints will decrease by more than 17 percent from the beginning of FY 1998 to the end of FY 2000. Prudent case management and the application of new complaint processing techniques (e.g., triage, teaming, and ADR), will enable OCR to continue to focus resources on other compliance activities that address discrimination systemically. The table on the following page summarizes the FY 1998 complaint workload and projects FY 1999 - FY 2000 activity:

### **Complaint Workload**

<u>Status/Activity</u>	<u>FY 1998</u>	<u>FY 1999</u>	<u>FY 2000</u>
Beginning Inventory	599	503	489
Complaints Received	1,548	1,605	1,625
Total Workload	2,147	2,108	2,114
Complaints Closed	1,644	1,619	1,621
Ending Inventory	503	489	493

## Reviews and Investigations

OCR conducts reviews and investigations as follows:

- ▶ Reviews of Compliance -- A review examines the compliance status of a program recipient. Reviews may be comprehensive or of limited scope with respect to the compliance issues involved and the statutory authorities applied.
- ▶ Investigations -- When a review, complaint case, or other information indicates serious problems of possible discrimination, OCR conducts an investigation.
- ▶ Pre-grant reviews -- A pre-grant review is conducted when health care facilities seek approval from the Department's Health Care Financing Administration to participate in the Medicare program.

During the past three years, OCR has continued to modify its compliance review approach to provide greater flexibility, to expand coverage, and to make it more consistent with regulatory provisions. Under the regulations implementing the nondiscrimination laws, OCR must periodically review the policies and practices of program recipients to assess compliance. In addition, the regulations require an investigation whenever a review, report, complaint, or other information indicates a possible failure to comply with nondiscrimination requirements. A pro-active review and investigation program enables OCR to target its compliance resources to address priority civil rights issues. This enables more effective prevention efforts than can be accomplished through handling of issues raised by complainants alone.

OCR estimates that a total of 355 reviews of compliance will be conducted in FY 2000, including carry-in cases and new starts. OCR projects closing 261 of these reviews by the end of the year. In addition, OCR expects to conduct a total of 210 investigations, closing 114 investigations by the end of the fiscal year. Reviews and investigations will focus on supporting major HHS goals on quality of health care, welfare reform, and children's health, while supporting Presidential initiatives on adoption and on race.

An example of a review that supported the adoption initiative was conducted in our Atlanta regional office during FY 1997. OCR worked in concert with ACF staff to plan and conduct an investigation of foster care placements in Florida. The activity also included training of Florida state agency staff on how to conduct these investigations. State staff conducted interviews and reviewed case records while on-site with OCR staff at both the state and county levels. This effort resulted in issuance of a noncompliance "letter of finding" that the state Department of Children and Families impermissibly used race in foster care placements.

The total workload for post-grant reviews and investigations will increase by nearly 45 percent between FY 1998 and FY 2000 and the number of closures will increase by nearly two-thirds. Increased review activities have been urged both by the Department of Justice and the U.S. Commission on Civil Rights. An estimated 50 FTE will be utilized for reviews of compliance and investigations in FY 2000 and FY 1999 compared with 41 FTE in FY 1998. The following table summarizes the FY 1998 compliance review workload and projects FY 1999 and FY 2000 activity:

## Reviews of Compliance and Investigations

<u>Status/Activity</u>	<u>FY 1998</u>	<u>FY 1999</u>	<u>FY 2000</u>
Beginning Inventory	90	164	173
New Reviews/Investigations	301	345	392
Total Workload	391	509	565
Actions Completed	227	336	375
Ending Inventory	164	173	190

Pre-grant reviews are mandated when health care providers such as nursing homes and home health agencies apply to participate in the Medicare program. When providers seek Medicare certification, OCR conducts a pre-grant review to determine whether they will be able to comply with Title VI, Section 504, and the Age Discrimination Act. Such reviews are an effective means for working with health and social services providers because potential civil rights concerns can be identified prior to receipt of federal financial assistance. With the technical assistance that accompanies these reviews, health and social service providers can take steps to avoid future allegations of discrimination.

The number of pre-grant reviews increased substantially from FY 1993 through FY 1997. Early during FY 1998, while a moratorium on approval of new home health service providers was in effect, the number of such reviews dropped considerably. Based on regression analysis of pre-grant receipt data covering FY 1998, OCR projects that FY 1999 and FY 2000 receipts will remain at the FY 1998 level. An estimated 31 FTE will be used for pre-grant reviews during FY 2000, one less FTE than in FY 1999. Efforts to work cooperatively with states and other partners to ensure civil rights certification prior to receipt of federal financial assistance will be implemented as voluntary compliance and outreach projects. The table on the following page summarizes the pre-grant review workload in FY 1998 and gives projections for fiscal years 1999 and 2000:

### Pre-Grant Reviews

<u>Status/Activity</u>	<u>FY 1998</u>	<u>FY 1999</u>	<u>FY 2000</u>
Beginning Inventory	1,329	1,007	915
New Reviews	2,706	2,695	2,708
Total Workload	4,035	3,702	3,623
Reviews Completed	3,028	2,787	2,746
Ending Inventory	1,007	915	877

### Monitoring

The purpose of monitoring is to ensure that program recipients carry out the measures set forth in corrective action plans negotiated by OCR. Corrective action plans are negotiated to resolve compliance problems that are uncovered or verified during a review or a complaint or post-grant investigation. Monitoring involves reviewing reports or information submitted by program recipients. In some instances on-site visits may be necessary to assess a recipient's

progress in implementing corrective measures. Through monitoring, OCR also gathers data on access-related outcomes that have been set as GPRA performance measures. OCR anticipates that monitoring actions will be necessary in 648 cases and 687 cases in FY 1999 and FY 2000 respectively. To support this activity, OCR plans to allocate three FTE in FY 2000.

#### Voluntary Compliance and Outreach

Through voluntary compliance activities, OCR provides compliance information to beneficiaries and technical assistance to recipients of HHS funds to encourage voluntary compliance with non-discrimination laws and regulations. Technical assistance is made available through training, by developing and disseminating compliance information, and by providing recipients, recipient groups, and state and local officials with guidance on how to comply voluntarily with applicable civil rights laws. Initiatives undertaken with state and local governments, provider and beneficiary organizations and with advocacy groups are intended to prevent civil rights noncompliance through identification of issues and early intervention. As indicated previously in describing initiatives related to interethnic adoption and foster care, services to limited English proficient persons, and welfare reform, the issuance of guidance memoranda on civil rights compliance is expected to generate additional requests for technical assistance and to stimulate further partnership activities with state and local governments, providers and advocates.

OCR will allocate 28 FTE to voluntary compliance and outreach in FY 2000. This is four more than in FY 1998 and three more than during FY 1999. The assignment of staff time to voluntary compliance and outreach and partnership activities represents a commitment by OCR to listen to our customers and work in collaboration with our internal and external partners to best focus our

resources and efforts to address acute and chronic civil rights problems. With this allocation OCR will:

- ▶ Work with recipient state agencies to plan and initiate projects, including design and operation of cooperative pre-grant certification processes, to encourage sub-recipient compliance with nondiscrimination standards;
- ▶ Work with HHS staff, program providers, provider groups, advocacy groups, state agencies and others to develop and monitor remedial plans;
- ▶ Work with partners to prepare and distribute "methods of compliance" for state agencies to self-monitor and help state and local partners to monitor local efforts to achieve and maintain sub-recipient compliance;
- ▶ Bring together advocacy groups, providers, states and community leaders to address specific civil rights issues; and,
- ▶ Work jointly with HHS Operating Divisions, advocacy groups, provider organizations and others to produce program or industry-specific materials for use by grantees and their employees to help them to avoid civil rights problems.

VCO activities with HHS grantees increase their capacity to recognize, prevent and, as needed, resolve civil rights compliance problems. At the same time, OCR learns from such grantees and develops guidance and technical assistance based on such feedback. The following are examples of recent successful VCO activities that involved partnerships with state agencies and/or HHS OPDIVs.

OCR trained state agency staff on civil rights requirements and responsibilities in projects involving the Tennessee Department of Mental Health and Mental Retardation, the Tennessee Health Department (responsible for TENNCARE, Tennessee's Medicaid managed care program), the California Department of Social Services and the New York Department of Health. The training covered how to conduct compliance reviews and complaint investigations to ensure that their clients receive nondiscriminatory treatment and services. As a result, program staff in the state agencies will include civil rights compliance assessments in survey and certification and other periodic program reviews.

OCR's Dallas regional office conducted a special project under which the heads of all 26 state agencies in the region that receive HHS funds signed comprehensive civil rights "methods of administration" (MOAs) incorporating civil rights issues, policies and procedures into program planning and implementation by the agencies and their sub-recipients. The same office, in partnership with HCFA, HRSA, ACF, and OGC, the Food and Nutrition Service of the Department of Agriculture, the Arkansas Department of Human Services and the Arkansas Governor's Office planned and conducted a civil rights conference that attracted over 1,000 people from all five states in Region VI as well as several other states. Workshops at the conference focused on the application of civil rights laws to new state programs. Both the conference and the MOA project will help to enhance equal opportunity efforts in the design



and implementation of all HHS programs, particularly new initiatives under TANF, managed care, CHIP and SBJPA.

### **OFFICE OF THE GENERAL COUNSEL (CIVIL RIGHTS)**

OCR's budget request includes funds to support the Civil Rights Division of the Department's Office of the General Counsel. Division attorneys in headquarters and in the regional offices provide OCR staff with legal advice and assistance in interpreting and applying the nondiscrimination laws and regulations.

Specifically, the Civil Rights Division: (1) prepares cases for administrative enforcement proceedings and refers cases to the Department of Justice for enforcement; (2) assists the Department of Justice in litigating court cases involving civil rights issues and health and human services programs; (3) reviews or assists in developing civil rights regulations, policy interpretations, and guidelines; (4) issues legal opinions at OCR's request; and (5) provides legal guidance in applying the Privacy Act, the Freedom of Information Act, and other statutes and regulations with which OCR must comply.

OCR will allocate 19 FTE to legal services in FY 2000. This includes legal staff both in OCR headquarters and regional offices. OCR anticipates that at the planned FTE level the Civil Rights Division will be able to provide necessary legal assistance in connection with letters of findings, corrective action plans, regulations, legal interpretations, guidelines, and technical assistance materials. Specifically, in FY 2000 the attorney staff is expected to provide legal advice in connection with an estimated 380 investigated complaints, reviews, and corrective action plans, and 75 litigation matters. In addition, the attorney staff will review potential enforcement actions, represent OCR at administrative hearings and appeals, and provide general legal guidance regarding court decisions and the scope and applicability of statutory and regulatory requirements.

### **PROGRAM MANAGEMENT**

This component provides OCR with overall policy direction and management services needed to plan and accomplish program objectives. Management determines compliance and enforcement priorities, including program and long-range planning; provides policy direction; allocates staff to priority objectives; monitors and evaluates progress; makes final decisions on OCR's compliance standards, procedures, proposed regulations and policy determinations; formulates and executes the budget; provides a full range of administrative services in areas such as Information Resources Management, procurement, property management, supplies, and personnel; and ensures coordination with departmental officials and with other executive branch departments and agencies.

OCR will assign 17 FTE to management functions in FY 2000. This staff will continue to provide the office with the full range of administrative services, provide overall policy direction and program coordination, and implement and monitor operating plans. FTE allocated to these functions will have been reduced by 19 percent from the FY 1995 level. This is consistent with the streamlining goals of the National Performance Review to reduce administrative controls and to lower the ratio of supervisors to staff.

### Rationale for the Budget Request

The FY 2000 request for OCR of \$22,159,000 and 225 FTEs is an increase of \$1,500,000 above the FY 1999 appropriation. The additional dollars cover built-in increases and will enable OCR to strengthen its compliance and enforcement activities by supporting staffing at the FY 1999 projected usage level and nine FTE above the level of staffing supported during FY 1998. The requested increase in FY 2000 will enable OCR to implement effectively support key HHS-wide health and social services goals. The request will enable OCR to implement initiatives for working with state, local, and other partners to ensure that civil rights issues are addressed concurrent with major changes in health and social services systems (e.g., managed care, waivers/flexibility in Medicaid, welfare reform). The request will enable OCR to implement the sixth Triennial cycle of Hill-Burton Community Services Assurance reporting and will support a continued commitment to strengthening civil rights enforcement through enhanced staff training and compliance-related program travel.

OCR projects that the budget request will support initiation of 145 more post-grant reviews of compliance, investigations, and voluntary compliance activities than could be undertaken if FTE levels were to return to the FY 1998 level.

# OFFICE FOR CIVIL RIGHTS

## DETAIL OF FULL-TIME EQUIVALENT (FTE) EMPLOYMENT

	1998 <u>Actual</u>	1999 Current <u>Estimate</u>	2000 <u>Estimate</u>
Headquarters:			
Office of the Director, including Policy and Special Projects Staff.....	14	14	13
Office of the General Counsel (Civil Rights).....	9	8	8
Office of Management Planning and Evaluation.....	16	15	15
Office of Program Operations.....	23	22	21
Regional Offices.....	<u>154</u>	<u>166</u>	<u>168</u>
Total, OCR.....	216	225	225

### Average GS Grade

1996.....	11.7
1997.....	11.7
1998.....	11.8
1999.....	11.6
2000.....	11.6

OFFICE FOR CIVIL RIGHTS

DETAIL OF POSITIONS

	1998 <u>Actual</u>	1999 <u>Estimate</u>	2000 <u>Estimate</u>
Executive Level	---	---	---
I.....			
Executive Level	---	---	---
II.....			
Executive Level	---	---	---
III.....			
Executive Level	---	---	---
IV.....			
Executive Level	---	---	---
V.....			
Subtotal.....	---	---	---
Total - Executive Level	---	---	---
Salaries.....			
ES-	---	---	---
6.....			
..			
ES-	1	1	1
5.....			
..			
ES-	1	1	1
4.....			
..			
ES-	1	1	1
3.....			
..			
ES-	---	---	---
2.....			
..			
ES-	<u>2</u>	<u>2</u>	<u>2</u>
1.....			
..			
Subtotal.....	5	5	5
Total - ES	\$572,227	\$587,085	\$604,760
Salaries.....			
GS-	17	16	16
15.....			
GS-	27	28	28
14.....			
GS-	31	27	27
13.....			

GS-12.....	107	106	107
GS-11.....	25	20	19
GS-10.....	2	2	3
GS-9.....	5	4	8
.			
GS-8.....	6	5	5
.			
GS-7.....	5	11	6
.			
GS-6.....	6	9	9
.			
GS-5.....	5	3	3
.			
GS-4.....	1	3	3
.			
GS-3.....	---	3	3
.			
GS-2.....	---	---	---
.			
GS-1.....	---	---	---
.			
Subtotal.....	237	237	237
Total positions.....	242	242	242
Total FTE usage, end of year.....	216	225	225
<hr/>			
Average ES level.....	3	3	3
Average ES salary.....	\$114,445	\$117,417	\$120,952
Average GS grade.....	11.8	11.6	11.6
Average GS salary.....	\$59,546	\$61,404	\$63,705

Average Special

Pay.....

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## OFFICE FOR CIVIL RIGHTS

### GPRA ANNUAL PERFORMANCE PLAN -- REVISED FINAL FY 1999 AND FY 2000

Program Activity	FY 1998 Actual	FY 1999	FY 2000
Civil Rights Compliance	\$19,659,000	\$ 20,659,000	\$ 22,159,000

This plan is a combined revised final FY 1999 and FY 2000 GPRA performance plan. The FY 1999 goals in the plan reflect FY 1999 appropriation levels. The FY 2000 goals reflect the FY 2000 requested level of funding.

#### OCR Mission

The Office for Civil Rights promotes and ensures that people have equal access to and opportunity to participate in and receive services in all HHS programs without facing unlawful discrimination. Through prevention and elimination of unlawful discrimination, the Office for Civil Rights helps HHS carry out its overall mission of improving the health and well-being of all people affected by its many programs.

#### HHS Civil Rights Plan Goals and Objectives

In January 1995, OCR issued a Civil Rights Plan that established three goals of: 1) leading in the creation and evolution of a Department-wide civil rights program, 2) increasing nondiscriminatory access to and participation in HHS programs, and 3) redeveloping OCR's infrastructure and investing in its staff. The five performance objectives in OCR's revised final FY 1999 GPRA performance plan and FY 2000 GPRA performance plan flow directly from our plan's goals and objectives. Specifically, they address the plan's objectives of reducing discrimination in high incidence and high priority areas, using partnerships to assist OCR in carrying out its mission, and enhancing OCR's operational efficiency.

OCR's first four GPRA performance objectives deal with high priority issues identified during the planning process -- adoption, managed care, services for limited-English proficient persons, and welfare reform. The fifth performance objective deals with increasing operational efficiency by focusing resources on high priority areas. The four high priority areas were identified during OCR's planning process through public forums with advocacy and other community-based organizations, state and local agencies, service providers, and other Departmental components. In addition, the passage of new legislation, Presidential and Secretarial initiatives, continuing changes in health care delivery systems, information from community-based organizations, and ongoing OCR compliance activities confirm that these are key issues on which OCR should focus its resources.

Consistent with the Civil Rights plan, OCR will build upon on-going partnerships in the four high priority areas. OCR will continue and expand upon joint initiatives with HHS Operating

Divisions (OPDIVs) and Staff Divisions (STAFFDIVs) as they implement new programmatic initiatives and improve ongoing programs. These partnerships may include assessment of existing administrative data sets to determine whether such data can help identify possible civil rights compliance issues. Through consultations, technical assistance and other outreach activities, OCR will educate state and local agencies, service providers and advocacy and other community-based organizations to ensure that civil rights requirements are being enforced. OCR will partner with such entities to identify possible compliance problems, and where appropriate, conduct joint activities to ensure nondiscriminatory access to services.

OCR's GPRA plan is directly linked to the HHS Strategic Plan. OCR's objectives and partnerships within the Department are key to realizing the HHS core value of protecting against discrimination in the provision of health and human services. The performance measures under OCR's adoption objective support the HHS strategic objective of improving the safety and security of children and youth (Strategic Objective 2.4). Measures under OCR's managed care and limited-English proficiency (LEP) objectives support the HHS strategic objectives of expanding access to consumer-directed, home and community-based long-term care and health services (Strategic Objective 2.6), increasing the percentage of the nation's children and adults who have health insurance coverage (Strategic Objective 3.1), increasing the availability of primary health care services (Strategic Objective 3.2), improving access to and the effectiveness of health case services for persons with specific needs (Strategic Objective 3.3), protecting and improving beneficiary health and satisfaction in Medicare and Medicaid (Strategic Objective 3.4), reducing disparities in the receipt of quality health care services (Strategic Objective 4.2), and improving consumer protection (Strategic Objective 4.4). In addition, the OCR LEP and welfare reform (TANF) objectives support the HHS strategic objective of increasing the economic independence of families on welfare (Strategic Objective 2.1). See table at the end of the GPRA plan.

### **Developing Performance Measures/Baselines and Validation of Data**

OCR will use both outputs and outcomes to measure performance during FY 2000 (see chart with goals, objectives, and measures). Starting in FY 1998, OCR has focused its review and outreach/education activities on the four high priority performance objectives. During FY 1998, OCR developed GPRA data fields for the collection of case and outreach-related data within its existing Compliance Activity Tracking System (CATS). OCR has begun to collect data to establish baselines against which FY 2000 outputs will be measured. Output measures indicated on the performance objective chart for the four priority areas include:

- ▶ increased number of reviews conducted,
- ▶ increased number of corrective actions and no violation findings from review and complaint investigation activities,
- ▶ increased number of consultations/technical assistance provided,
- ▶ increased number of partnerships established, and
- ▶ increased number of outreach activities conducted.

OCR has determined that these outputs are important indicators of its success in educating providers, advocacy groups and beneficiaries about civil rights requirements and responsibilities. Public knowledge of these requirements and responsibilities is a major factor in ensuring compliance. Outputs such as the number partnerships, consultations, technical assistance, and outreach activities reflect the extent of OCR's coverage of the extensive network of providers and users of HHS-funded services. The number of reviews and the number of corrective actions or "no violation" findings in OCR's casework is a measure both of the scope of OCR's coverage of the universe of HHS grantees and of OCR's success in achieving civil rights compliance through outreach, partnership, technical assistance, and investigative activities.

With respect to outcome-oriented measures, OCR developed a system for collecting pre- and post-review/complaint investigation data over a two- to three-year period to show the effect of OCR's involvement on protected beneficiaries of actions taken by HHS service providers. OCR has begun to collect data regarding access to service and services received prior to the initiation of a review or complaint investigation (or during the review/investigation if pre-existing data are unavailable). OCR will collect data through subsequent monitoring after a sufficient period of time has elapsed to evaluate if there has been a change in protected beneficiaries' access to or receipt of services. The collection of such pre-OCR and post-OCR involvement data is the means by which OCR will be able to validate if the work it is carrying out is having the expected effect on HHS beneficiaries. For example, if OCR has reason to believe that a hospital in an area with a large population of persons who may be limited English proficient does not provide adequate interpreter services, OCR will conduct a review and capture data over a specified period of time on the number of hours of interpreter services provided (either retrospectively or during the review). Subsequent to the review or investigation, OCR will monitor and collect data from the hospital on interpreter hours provided during a comparable time period. The period for which OCR will require a provider to submit data will, in part, be dependent on the size of the facility and/or the type and number of services for which the facility will be collecting data.

OCR uses a number of techniques in order to validate data collected. These include conducting additional on-site reviews/investigations, examining files and other records, and analyzing data from independent sources such as other HHS components, state or local governmental agencies, or advocacy organizations.

OCR continues to adapt its compliance activity management information system to enable us to capture and analyze these data. Currently OCR collects data on case processing and other compliance projects through its Compliance Activity Tracking System (CATS). This database system has been designed using commercial off-the-shelf software (Microsoft Access) and is currently operating as a flat file system with each region entering data into a regional file that can be combined with other regional files into a national data resource. At the end of the second quarter of FY 1998, OCR added data fields to capture GPRA outcome measures related to conducting specific types of reviews and investigations and GPRA output data for the four identified high priority issues. Data on populations served by providers and data on types and numbers of services will be collected during reviews and investigations by the investigator(s) handling a given case. By FY 2000, OCR projects that it will convert the



database to a relational format in which an underlying table structure will enable greater ease of data generation and analysis.

In the latter part of FY 1998, OCR began the process of collecting outcome data in order to establish baselines for its outcome measures. The process described above for collecting these data and thereby establishing attendant outcome measure baselines may take two to three years due to the nature of the programs under review and the specific designated performance measures. This is due to the need to have a sufficient number of comparable reviews and investigations and attendant monitoring data to serve as a base for comparisons. Due to the need to monitor outcome data for OCR's compliance activities completed in FY 1998 and FY 1999, OCR projects that it will need to review FY 1999 monitoring data in FY 2000 in order to establish baselines for outcome measures for the adoption and LEP priority areas. Therefore, OCR expects to have baseline data for seven of its 12 outcome measures in FY 2000. OCR expects to establish baselines for the remaining five outcome measures, which are associated with the managed care and welfare reform priority areas, by the end of FY 2001.

Using the new data fields established in mid-FY 1998, OCR has established initial FY 1998 baseline data for its case-related output measures. Because of reporting and data entry problems related to the implementation of these new data fields, OCR's case-related baselines and the FY 1999 and FY 2000 performance targets may change based on continuing data validation. FY 1998 data on outreach activities, partnerships, and consultations/technical assistance provided were inadequate to establish baselines. Therefore these output measures remain developmental. OCR anticipates having sufficient information in FY 1999 to establish these baselines.

Data on the number of reviews, outreach and partnership activities, the number of consultations/technical assistance provided and other counts of OCR contacts/projects are reported by each region to OCR headquarters. These numbers are reviewed against Annual Operating Plans (AOPs) and where there are variances from planned activities, OCR program operations staff contact the regions to verify such differences. Where data reported for comparable activities across several regions appears to be skewed in a given region or two, program staff follows up to identify reasons for such discrepancies. In addition, OCR will continue to validate all regionally-reported data as it has in the past through periodic management reviews or evaluations of Civil Rights Plan implementation.

## Factors that May Affect Outcomes

External factors beyond OCR's control may affect the proposed outcomes. Such factors include:

- ▶ Legislation, Administrative Action, and Court Decisions

Federal or state administrative action, court actions, or changes in laws may affect OCR's ability to achieve its outcomes. For example, we have already seen a drop in the number of minorities entering California and Texas medical schools as a result of action taken by the California Board of Regents and a court case in Texas. Over time, changes in professional school admissions could affect the number of minority practitioners providing service in individual managed care plans and in turn affect the number of minorities being served by such plans.

- ▶ Fiscal Availability

Significant cuts in funding in OCR, HHS OPDIVs, or state and local programs' budgets would have a deleterious effect on proposed outcomes. If OCR is not funded at the requested FY 2000 funding level, reductions in areas such as staffing and travel would most likely result in fewer reviews being conducted and in less outreach/technical assistance and partnership activities. Cuts in services in state and local programs would result in fewer minorities and disabled people being served. Additionally, if advocacy and other community-based groups experience cuts in foundation, government, and private funding, we would expect that we would not be able to conduct the partnership activities with these groups envisioned by our plan.

- ▶ Limitations of Data

As discussed above, OCR has adapted its compliance activity management information system in order to be able to capture and analyze pre- and post-review/complaint investigation data. As we implement our GPRA objectives, we will work with recipients to determine if they have any problems in collecting requested data. We also will assess if there are differences in how states, localities and others report data that require OCR to be more specific in definition of data terms or to change our measures, and determine if our compliance activity system adequately generates the data that we need to measure performance.

OCR may rely on the Administration for Children and Families' (ACF's), Adoption and Foster Care Analysis and Reporting System (AFCARS), for some of the outcome data it collects pertaining to the number of minority children awaiting adoption. Although ACF has safeguards in place to ensure that the data collected is reliable, errors can still occur if data gathering procedures and processing are not periodically sampled and reviewed for completeness, consistency, and accuracy.

State and local data necessary to measure baseline performance may not be comparable from state to state. States have the flexibility to design, develop, and implement data

systems to meet their particular needs. The systems may not include data elements required to aggregate performance data for Federal programs.

In addition, there may be variations in the definitions of certain terms used by states. OCR will be examining these definitions to determine if these variations are significant. If necessary, we will refine the definitions of data items to ensure consistency in our data collection and reporting.

► **Economy and Demographics**

Changes in the economy may have an affect on OCR's meeting its outcomes. For example, if unemployment increases significantly, there may be a smaller pool of available adoptive parents. If that were the case, there would probably be an increase in the time all children, including minority children, would have to wait to be adopted.

Changes in the demographics of program participants due to a variety of factors could require OCR to modify program objectives related to minority access to services. An example of circumstances in which an objective may have to be changed would be if the number of minority participants in a welfare-to-work program decreases due to successful job placements.

**Modifications to the FY 1999 Annual Performance Plan**

OCR has combined sub-objectives one and two in the limited English (LEP) proficiency objective. The combined objective now focuses on increasing OPDIV staffs', grantees' and program providers' knowledge and understanding of OCR's internal LEP guidance. This change was made because OCR has determined that counting consultations/technical assistance provided on the guidance should not be separated on the basis of the customer being served. In addition, OCR has deleted the performance measure of increasing the number of state TANF plans reviewed with ACF from the welfare reform objective in its FY 1999 Annual Performance Plan. OCR has determined that the short-term and one-time nature of the ACF review of state plan updates does not merit inclusion of OCR's participation as a GPRA performance measure.

**Performance Objectives, Measures, and Baselines**

**GOAL 1: INCREASE NONDISCRIMINATORY ACCESS AND PARTICIPATION IN HHS PROGRAMS**

A. Objective: Increase # of HHS adoption service providers who provide nondiscriminatory placements for minority children

1. Sub-objective: Increase # state agencies and adoption agencies (local) found to be in compliance with the nondiscrimination provisions of the Small Business Job Protection Act.

Performance Measures:

- a. Increased # corrective actions and no violation findings
- b. Increased # reviews
- c. Decreased # or proportion of minority children waiting adoptive placement
- d. Decreased waiting times for minority children

Partnerships: OCR will work with the Administration for Children and Families in the implementation of the nondiscrimination provisions of the Small Business Job Protection Act. In addition, we may work with state adoption/foster care agencies in identifying providers for review. It is also expected that advocacy groups will provide information that OCR will use in targeting.

B. Objective: Increase access for minorities and persons with disabilities to nondiscriminatory services in managed care plan settings

- 1. Sub-objective: Increase # managed care plans found to be in compliance with Title VI, Section 504 and the Americans with Disabilities Act (ADA).

Performance Measures:

- a. Increased # corrective actions and no violation findings
  - b. Increased # minority practitioners providing services in managed care plans
  - c. Increased # interpreters/bilingual contacts/hours for LEP enrollees
  - d. Increased # interpreter contacts/hours for hearing/speech impaired individuals
- 2. Sub-objective: Increase managed care plans' awareness and understanding of civil rights requirements

Performance Measures:

- a. Increased # partnerships
- b. Increased # outreach activities

Partnerships: OCR will work collaboratively with the Health Care Financing Administration in such areas as identification of data needs, provision of technical assistance and conducting joint compliance activities. It is also expected that advocacy groups will provide information that OCR will use in targeting.

C. Objective: Increase access to HHS services for limited-English proficient persons

- 1. Sub-objective: Increase HHS OPDIV staffs', grantees' and program providers' knowledge and understanding of internal limited-English proficiency (LEP) guidance.

Performance Measures:

- a. Increased # consultations and technical assistance provided
- 2. Sub-objective: Increase # partnerships at the community level

Performance Measures:

- a. Increased # partnerships
- b. Increased # outreach activities
- 3. Sub-objective: Increase # HHS grantees and providers found to be in compliance with Title VI in LEP reviews/investigations.

Performance Measures:

- a. Increased # corrective actions and no violation findings
- b. Increased # reviews
- c. Increased # LEP persons served
- d. Increased # interpreter/bilingual contacts/hours for LEP persons
- e. Increased # services for LEP persons
- f. Increased # translated documents available

Partnerships: OCR will educate HHS OPDIVs on internal LEP guidance through consultations/technical assistance, such as meetings, forums and training sessions. As

a result, OCR will collaborate with OPDIVs in educating grantees and service providers on their obligations to comply and in the identification of possible compliance problems. OCR will also provide technical assistance to advocacy and other community-based organizations and will work with them in identifying providers for review.

D. Objective: Increase # of state and local welfare agencies and service providers administering TANF that are in compliance with Title VI, Section 504 and the ADA

1. Sub-objective: Increase HHS state and local welfare agencies and service providers' knowledge and understanding of Title VI, Section 504 and ADA requirements in the administration of TANF.

Performance Measures:

- a. Increased # consultations and technical assistance provided
2. Sub-objective: Increase # partnerships/outreach activities focused on nondiscrimination in administering TANF.

Performance Measures:

- a. Increased # partnerships
- b. Increased # outreach activities
3. Sub-objective: Increase # HHS state and local TANF agencies and service providers found to be in compliance with Title VI, Section 504 and ADA.

Performance Measures:

- a. Increased # corrective actions and no violation findings
- b. Increased # reviews
- c. Increased # minority (including national origin/LEP) persons served
- d. Increased # disabled persons served

Partnerships: OCR will work with the Administration for Children and Families in reviewing state plans for possible compliance problems. Through consultations/technical assistance and outreach activities, OCR will educate state and local welfare agencies, service providers, and community-based groups on the requirements of Title VI, Section 504, and the ADA and will work with them to ensure that TANF programs operate in a nondiscriminatory manner. In addition, OCR may work with state agencies in targeting providers for review. It is also expected that advocacy groups will provide information that OCR will use in targeting.

## GOAL 2: ENHANCE OPERATIONAL EFFICIENCY

A. Objective: Increase % resources focused on high priority issues

1. Sub-objective: Increase % and/or # OCR compliance activities focused on high priority issues

Performance Measures:

- a. Increased % and/or # closures that are focused on high priority issues
- b. Increased % and/or # corrective actions or no violation findings that are focused on high priority issues
- c. Increased % and/or # outreach and partnership activities that are focused on high priority issues

2. Sub-objective: Decrease average age of priority case closures

Performance Measures:

- a. Decrease average age of all priority case closures





Program Activity	FY 1999	FY 2000
Civil Rights Compliance	\$20,659,000	\$22,159,000

**GOAL 1: TO INCREASE NONDISCRIMINATORY ACCESS AND PARTICIPATION IN HHS PROGRAMS**

OBJECTIVE	SUB-OBJECTIVES	PERFORMANCE MEASURES	BASELINE	FY 1999	FY 2000
A. Increase # of HHS adoption service providers who provide <del>nondiscrimi-</del> <del>natory</del> placements for minority children.	1. Increase # State agencies and adoption agencies (local) found to be in compliance with the nondiscrimination provisions of the Small Business Job Protection Act.	a. increased # corrective actions and no violation findings b. increased # reviews c.* decreased # or proportion of minority children waiting adoptive placement d.* decreased waiting times for minority children	a. 20 corrective actions and no violation findings FY 1998 b. 14 reviews FY 1998 c. # minority children waiting for placement (before OCR review) d. # minority children waiting for 1 to 12 months (before OCR review) and # minority children waiting >12 months (before OCR review) and average time to placement (before OCR review)	a. 30 corrective actions and no violation findings.  b. 28 reviews closed.  c. & d. Developmental	a. 33 corrective actions and no violation findings.  b. 31 reviews closed  c. & d. Developmental

\* Due to the nature of the programs under review and the specific designated performance measures, sufficient baseline data may not be available until FY 2001.

**GOAL 1: TO INCREASE NONDISCRIMINATORY ACCESS AND PARTICIPATION IN HHS PROGRAMS (Continued)**

OBJECTIVE	SUB-OBJECTIVES	PERFORMANCE MEASURES	BASELINE	FY 1999	FY 2000
B. Increase access for minorities and persons with disabilities to nondiscriminatory services in managed care plan settings.	1. Increase # managed care plans found to be in compliance with Title VI, Section 504 and the Americans with Disabilities Act	a. increased # corrective actions and no violation findings b.* increased # minority practitioners providing services in managed care plans c.* increased # interpreter/bilingual contacts/hours for LEP enrollees d.* increased # interpreter contacts/hours for hearing/speech impaired individuals	a. 10 corrective actions and no violation findings FY 1998 b. # minority practitioners (before OCR review) c. # language interpreter contacts/hours provided LEP enrollees (before OCR review) d. # sign language interpreter contacts/hours provided (before OCR review)	a. 40 corrective actions and no violation findings.  b. - d. Developmental	a. 44 corrective actions and no violation findings.  b. - d. Developmental
	2. Increase managed care plans' awareness and understanding of civil rights requirements	a. increased # partnerships b. increased # outreach activities	a. # partnerships FY <del>1998</del> 1999** b. # outreach activities FY <del>1998</del> 1999**	a. & b. Developmental**	a. & b. Developmental**

\* Due to the nature of the programs under review and the specific designated performance measures, sufficient baseline data may not be available until FY 2001.

\*\* FY 1998 data on outreach activities, partnerships, and consultations/technical assistance provided were inadequate to establish baselines. Therefore these output measures remain developmental. OCR anticipates having sufficient information in FY 1999 to establish these baselines.

**GOAL 1: TO INCREASE NONDISCRIMINATORY ACCESS AND PARTICIPATION IN HHS PROGRAMS (Continued)**

OBJECTIVE	SUB-OBJECTIVES	PERFORMANCE MEASURES	BASELINE	FY 1999	FY 2000
C. Increase access to HHS services for limited-English proficient persons.	1. Increase HHS OPDIV staffs', grantees' and program providers' knowledge and understanding of internal limited-English proficiency (LEP) guidance. (Combine 1 & 2)	a. increased# consultations and technical assistance provided	a. # consultations-technical assistance provided FY 1998 1999**	a. Develop-mental**	a. Develop-mental**
	<del>2. Increase HHS grantees' and program providers' knowledge and understanding of internal limited-English proficiency (LEP) guidance.</del>	<del>a. increased# consultations and technical assistance provided</del>	<del>a. # consultations-technical assistance provided FY 1998**</del>	<del>a. **</del>	<del>a. **</del>
	32. Increase # partnerships at the community level	a. increased# partnerships b. increased# outreach activities	a. # partnerships FY 1998 1999** b. # outreach activities FY 1998 1999**	a. & b. Devel- opmental**	a. & b. Devel- opmental**
	43. Increase # HHS grantees and providers found to be in compliance with Title VI in LEP reviews/investigations	a. increased# corrective ac- tions and no violation findings b. increased # reviews c.* increased# LEP persons served d.* increased# interpreter/ bilingual contacts/ hours for LEP persons e.* increased# services for LEP persons f.* increased# translated documents available	a. 98 corrective actions and no violation findings FY 1998 b. 92 reviews closed FY 1998 c. # LEP persons served (before OCR review) d. # interpreter/ bilingual contacts/ hours for LEP persons (before OCR review) e. # services for LEP persons (before OCR review) f. # translated documents available (before OCR review)	a. 125 corrective actions and no violation findings.  b. 117 reviews closed.  c.- f. Developmen- tal	a. 140 corrective actions and no violation findings.  b. 131 reviews closed.  c.- f. Developmen- tal

\* Due to the nature of the programs under review and the specific designated performance measures, sufficient baseline data may not be available until FY 2001.

**\*\* FY 1998 data on outreach activities, partnerships, and consultations/technical assistance provided were inadequate to establish baselines. Therefore these output measures remain developmental. OCR anticipates having sufficient information in FY 1999 to establish these baselines.**

GOAL 1: TO INCREASE NONDISCRIMINATORY ACCESS AND PARTICIPATION IN HHS PROGRAMS (Continued)

OBJECTIVE	SUB-OBJECTIVES	PERFORMANCE MEASURES	BASELINE	FY 1999	FY 2000
D. Increase # of State and local welfare agencies and service providers administering TANF** that are in compliance with Title VI, Section 504 and the ADA	1. Increase state and local welfare agencies and service providers' knowledge and understanding of Title VI, Section 504 and ADA requirements in the administration of TANF.	a. increased # consultations and technical assistance provided <del>b. increased # state plans reviewed with ACF</del> OCR has deleted this as a performance measure in FY 1999 and subsequent years because the short-term and one-time nature of these reviews.	a. # consultations - technical assistance provided FY 1998 1999**  <del>b. # State plans reviewed with ACF FY 1998</del>	a. Developmental**	a. Developmental**
	2. Increase # partnership/outreach activities focused on nondiscrimination in administering TANF	a. increased # partnerships b. increased # outreach activities	a. # partnerships FY 1998 1999** b. # outreach activities FY 1998 1999**	a. & b. Developmental**	a. & b. Developmental**
	3. Increase # state and local TANF agencies and service providers found to be in compliance with Title VI, Section 504 and ADA	a. increased # corrective actions and no violation findings b. increased # of reviews c.* increased # minority (including national origin/LEP) persons served d.* increased # disabled persons served	a. 8 corrective actions and no violation findings FY 1998 b. 7 reviews FY 1998 c. # minority (including national origin/LEP) persons served (before OCR review) d. # disabled persons served (before OCR review)	a. 16 corrective actions and no violation findings.  B. 14 reviews closed FY 1998.  c. & d. Developmental	a. 18 corrective actions and no violation findings.  B. 16 reviews closed FY 1998.  c. & d. Developmental

\* Due to the nature of the programs under review and the specific designated performance measures, sufficient baseline data may not be available until FY 2001.

\*\* FY 1998 data on outreach activities, partnerships, and consultations/technical assistance provided were inadequate to establish baselines. Therefore these output measures remain developmental. OCR anticipates having sufficient information in FY 1999 to establish these baselines.

**GOAL 2: TO ENHANCE OPERATIONAL EFFICIENCY**

OBJECTIVE	SUB-OBJECTIVES	PERFORMANCE MEASURES	BASELINE	FY 1999	FY 2000
A. Increase % resources focused on high priority issues.	1. Increase % and/or # OCR compliance activities focused on high priority issues	a. increased % and/or # closures that are focused on high priority issues  b. increased % and/or # corrective actions or no violation findings that are focused on high priority issues  c. increased % and/or # outreach and partnership activities that are focused on high priority issues	a. 23% and 150 closures focused on high priority issues FY 1998  b. 21% and 123 corrective actions or no violation findings focused on high priority issues FY 1998  c. % and/or # outreach activities focused on high priority issues FY 1998 1999.*	a. 30% and 233 closures focused on high priority issues.  b. 28% and 191 <del>corrective</del> actions or no violation findings focused on high priority issues.  c. Developmental*	a. 45% and 370 closures focused on high priority issues.  b. 42% and 303 <del>corrective</del> actions or no violation findings focused on high priority issues.  c. Developmental*
	2. Decrease average age of priority case closures	a. decreased average age of all priority case closures	a. 244 days to closure FY 1998	a. 238 days to closure.	a. 232 days to closure.

\* FY 1998 data on outreach activities undertaken were inadequate to establish baselines. Therefore these output measures remain developmental. OCR anticipates having sufficient information in FY 1999 to establish these baselines.

## GPRA - SUPPORT OF HHS STRATEGIC PLAN

HHS STRATEGIC OBJECTIVE	OCR GPRA GOALS/OBJECTIVES				
	Goal 1: Increased Access				Goal 2: Increased Operational Efficiency
	A. Adoption	B. Managed Care	C. Limited English Proficiency	D. Welfare Reform (TANF)	A. Resource or Priority Issues
2.1 Families on Welfare			X	X	*
2.4 Child Safety/ Security	X				*
2.6 Home and Community-Based Care/Services		X	X		*
3.1 Health Care Insurance		X	X		*
3.2 Primary Health Care Services		X	X		*
3.3 Health Services for Special Needs Person		X	X		*
3.4 Medicaid/Medicare Health Satisfaction		X	X		*
4.2 Health Care Disparities		X	X		*
4.4 Consumer Protection		X	X		*

\* This GPRA objective is focused on improving operational efficiency and therefore increasing the proportion of resources being devoted to high priority issues (i.e., the four GPRA high priority areas: A-D under the access goal above). Therefore, one could posit that the operational efficiency goal supports all three of the HHS Strategic Plan objectives noted above because success under that goal will result in increased resources focused on priority issues that address the HHS goals.